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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/618,096	07/11/2003	Vladimir Hampl JR.	SMD-135	4956
22827	7590	12/08/2006	EXAMINER	
DORITY & MANNING, P.A. POST OFFICE BOX 1449 GREENVILLE, SC 29602-1449			MAYES, DIONNE WALLS	
			ART UNIT	PAPER NUMBER
			1731	

DATE MAILED: 12/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/618,096

Applicant(s)

HAMPL ET AL.

Examiner

Dionne Walls Mayes

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 November 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13, 16-27, 29-37, 39-45, 48-56, 58-61 and 64-71 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10, 12-13, 16-27, 29, 31-37, 39-45, 48-56, 58-61, 64-70 is/are rejected.
- 7) ☒ Claim(s) 11, 30 and 71 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Reopening of Prosecution

1. The affidavit filed on November 13, 2006 under 37 CFR 1.131 is sufficient to overcome the Luan et al (US. Pat. No. 2004/0250828) and Snaidr et al (US. Pat. No. 2004/0020504) references. Therefore, the FINALITY of the rejection of the last Office Action, dated June 9, 2006 has been WITHDRAWN. However, upon further consideration, a new ground of rejection is made over the Snaidr et al (US. Pat. No. 6,799,578) and Hampl et al (US. Pat. No. 5,893,372). In view of the discovery of the above-cited art, PROSECUTION IS HEREBY REOPENED as set forth below.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-2, 4-9, 12-13, 16-21, 23-27, 31-35, 37, 39-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hampl, Jr. (US. Pat. No. 5,893,372).

Hampl, Jr. discloses nearly all that is recited in the claims (See entire document) since it teaches smoking articles having reduced carbon monoxide delivery, less than 15 mg, which would obviously satisfy the claimed percentages/ratios. The wrapping paper of the smoking articles contain iron oxide in an amount up to about 2% (see entire document). The Examiner construes "about 2%" to correspond to the claimed "about

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3%". In the alternative, absent any showing of unexpected results, it would have been obvious to one having ordinary skill in the art at the time of the invention to have provided the iron oxide in the amount of about 3% - as claimed – in order to optimize the amount of iron oxide in the wrapper.

Regarding claim 12, it would have been obvious to one having ordinary skill in the art at the time of the invention to have included a second, outer, wrapper in the smoking article of Hampl, Jr. since double wrap cigarettes are conventional in the art.

4. Claims 22, 36, 49-56, and 58-61, 64-70 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hampl, Jr. (US. Pat. No. 5,893,372) in view of Hampl, Jr. (US. Pat. No. 4,739,775).

While Hampl, Jr. '372 may not disclose low permeability areas surrounding the tobacco in order to reduce ignition proclivity, Hampl, Jr. '775 teaches the addition of bands of paper material to wrappers for smoking articles in order to provide reduced ignition proclivity (see abstract and figs.). Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to modify the smoking product of Hampl, Jr. '372 to include the banded material disclosed in Hampl, Jr. '775 in order to appreciate the self-extinguishing benefits of the wrapper material.

5. Claims 1-10, 12-13, 16-21, 23-27, 29, 31-35, 37, 39-45, 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Snaidr et al (US. Pat. No. 6,799,578).

Snaidr et al discloses nearly all that is recited in the claims since it teaches a catalyst composition that can be contained in the wrapper of a cigarette – which obviously has the first and second components claimed - said catalyst comprising a

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metal oxide having a metal component from Group VIII, such as iron oxide, in an amount of at least 10% - which is obviously an amount effective to reduce/convert carbon monoxide to carbon dioxide by at least 10%.

Regarding claim 9, it would have been obvious to one having ordinary skill in the art at the time of the invention to have utilized reconstituted tobacco as the wrapper since use of such is well known in the tobacco art.

Regarding claims 16-21, 23-27, 32-35, it follows that these parameters would obviously be present in the smoking article of Snaidr et al which suggests the utilization of Applicant's claimed catalyst in the claimed amounts.

Regarding claims 43-44, calcium carbonate fillers are well-known for their use in cigarette wrappers and, therefore, would have been obvious additions to the wrapper of Snaidr et al.

6. Claims 22, 36, 49-56, and 58-61, 64-70 are rejected under 35 U.S.C. 103(a) as being unpatentable over Snaidr et al (US. Pat. No. 6,799,578) in view of Hampl, Jr. (US. Pat. No. 4,739,775).

While Snaidr et al may not disclose low permeability areas surrounding the tobacco in order to reduce ignition proclivity, Hampl, Jr. '775 teaches the addition of bands of paper material to wrappers for smoking articles in order to provide reduced ignition proclivity (see abstract and figs.). Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to modify the smoking product of Snaidr et al to include the banded material disclosed in Hampl, Jr. '775 in order to appreciate the self-extinguishing benefits of the wrapper material.

Allowable Subject Matter

7. Claims 11 and 30 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

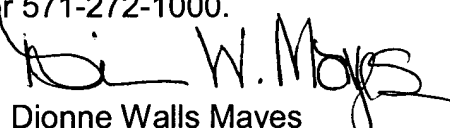
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dionne Walls Mayes whose telephone number is (571) 272-1195. The examiner can normally be reached on Mon-Fri, 7AM - 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven P. Griffin can be reached on (571) 272-1189. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Dionne Walls Mayes
Primary Examiner
Art Unit 1731

December 7, 2006